

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:06-CR-145

v.

HON. ROBERT HOLMES BELL

BRANDON KELLY,

Defendant.

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MEMORANDUM OPINION AND ORDER

This matter is before the Court on Defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket #29). Based on a review of Defendant's motion, the Sentence Modification Report, submission by counsel on behalf of the government, and the original criminal file, the Court has determined that the motion should be denied for the following reason(s):

Defendant was sentenced for being a Felon in Possession of a Firearm (Count 1), Possession of a Firearm in a School Zone (Count 2), and Possession of an Unspecified Quantity of Cocaine Base (Count 3). Amendment 706, as amended by 711, of the United States Sentencing Guidelines retroactively modified the Drug Quantity Table for cocaine base (crack cocaine) found in U.S.S.G. §2D1.1. Section 2D2.1(a)(1) was used to calculate Defendant's base offense level for Count 3. The crack cocaine amendment does

not apply to cases involving Section 2D2.1(a)(1). Accordingly,

Defendant's Motion for Modification or Reduction of Sentence is **DENIED**.

Date: June 9, 2008

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE